

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BANK OF NEW YORK MELLON,

Plaintiff,

vs.

SOUTHERN HIGHLANDS COMMUNITY
ASSOCIATION, et al.,

Defendants.

Case No. 2:15-cv-01711-JCM-CWH

ORDER

Presently before the Court is Defendant SFR Investment Pool 1, LLC's ("SFR") Motion to Serve Christopher R. England by Publication (ECF No. 46), filed on February 10, 2016. Also before the Court is SFR's Motion to Serve Kristen M. England by Publication (ECF No. 47), filed on February 10, 2016.

SFR moves to permission to serve Christopher R. England and Kristen M. England (the "Englands") by publication, arguing that it has not been possible to serve either of the Englands at their last known addresses and that no forwarding addresses have been found for either of the Englands. Attached to each of the motions are affidavits of due diligence describing the efforts made to locate the Englands. (*See* Mot. to Serve Christopher R. England by Publication (ECF No. 46) ["Mot. to Serve Mr. England"] at Ex. A; Mot. to Serve Kristen M. England by Publication (ECF No. 47) ["Mot. to Serve Ms. England"] at Ex. A.) The affidavit regarding Mr. England states that Nevada Department of Motor Vehicle records show that Mr. England has a valid, unexpired Nevada driver's license with 2050 Longley Lane, Apartment 2303, Reno, Nevada, 89052 as the address on the license. (Mot. to Serve Mr. England, Ex. A at 1.) The affidavit further states there is a current vehicle registration in Mr. England's name that lists the same address. (*Id.* at 2.) Nevada DMV records indicate that Ms. England is a current co-registrant of the vehicle, with an address of 11122 Cantoria Court, Las Vegas, Nevada 89141, though Ms. England surrendered her Nevada driver's license to the State of Montana. (*Id.*; Mot. to Serve Ms. England, Ex. A.) The

1 affidavits describe various other searches that were conducted to locate current addresses for the
2 Englands.


3 Federal Rule of Civil Procedure 4(e)(1) provides that service of process that conforms with
4 state law “in the state where the district court is located or where service is made” is proper in
5 federal court. Nevada Rule of Civil Procedure 4(d)(6) provides that an individual must be served
6 “personally, or by leaving copies thereof at the defendant’s dwelling house or usual place of abode
7 with some person of suitable age and discretion residing therein, or by delivering a copy of the
8 summons and complaint to an agent authorized by appointment of law to receive service of
9 process.” Under Nevada law, an individual may be served by publication “when the person on
10 whom service is to be made resides out of the state, or has departed from the state, or cannot, after
11 due diligence, be found within the state, or by concealment seeks to avoid the service of the
12 summons” Nev. R. Civ. P. 4(e)(1).

13 Here, although SFR’s affidavits of due diligence describe various steps taken to locate the
14 Englands, the affidavits do not state that the process server made any attempts to personally serve
15 the Englands. Given that Nevada DMV records indicate Mr. England has a current and valid
16 driver’s license listing a Reno address and that the Englands are co-registrants of a vehicle with a
17 current registration listing both Reno and Las Vegas addresses, the Court will deny the motions
18 without prejudice for SFR to attempt to personally serve the Englands at the Reno and Las Vegas
19 addresses on file with the Nevada DMV.

20 IT IS THEREFORE ORDERED that Defendant SFR Investment Pool 1, LLC’s Motion to
21 Serve Christopher R. England by Publication (ECF No. 46) is DENIED without prejudice.

22 IT IS FURTHER ORDERED that Defendant SFR Investment Pool 1, LLC’s Motion to
23 Serve Kristen M. England by Publication (ECF No. 47) is DENIED without prejudice.

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25 DATED: March 1, 2016

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28 **C.W. Hoffman, Jr.**
United States Magistrate Judge